



Summary of Nov 8 MD WIP Closure Meeting

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Bob,

Thank you and thanks to the MD WIP Team for the opportunity on November 8 to talk through a number of reasonable assurance issues that we have raised with respect to MD's Watershed Implementation Plan. I'm providing the notes below to document what we understood to be outstanding issues deserving of further attention by the MD WIP Team.

Summary of Negotiated Outcomes and Outstanding Concerns from November 8 MD Phase I WIP Closure Meeting

Overall issues:

- While we appreciate that the MD WIP Team agreed to make revisions to the WIP to address some of the outstanding issues listed below, EPA is concerned that MD is still resisting further clarification of strategies and contingencies in their final Phase 1 WIP, citing limits on precision of the modelling and the assurance provided by the 2-year milestone approach (with adaptive management).
- EPA also is concerned that MD is viewing the Phase II WIP as the opportunity to decide how to structure gap-closing programs and pay for them rather than providing such explanations now in the Phase I WIP.
- As we advised during the November 8 meeting, EPA will have difficulty concluding that there is adequate reasonable assurance in the Phase I WIP without more clarification and details (e.g., how MD will achieve a 100% implementation rate for livestock exclusion from stream corridors when there is no requirement or program in place or proposal that would suggest that this be achieved by 2017).
- This has the unfortunate potential of placing us in a position of having to impose more backstops for Maryland's final WIP than we indicated based on your September 1 draft. We all want to avoid that if at all possible.

Agriculture Issues:

- MD's latest WIP input deck achieves almost zero TN and only 2% TP reduction from 2009 levels. We encouraged MD to identify additional gap-closing strategies for the sector.
- While we all agreed at the meeting that there needs to be a comprehensive solution to P imbalance where it exists on agricultural lands in MD (e.g., technical support, legislation, NMP incorporation, industry adoption), EPA recommends that the final MD WIP include a comprehensive strategy to move toward P management based on agronomic rates.
- EPA also supports the idea of formalizing an understanding between MD and USDA (e.g., by MOU) on how USDA programs will support WIP implementation. We recommend that MD's interest in such an agreement and a plan to pursue it be included in the MD WIP as a strategic element.
- To further enhance ag-related reasonable assurance we recommended MD include in the final WIP how MD will use CBRAP funding for NMP verification and include a strengthened NMP verification regime that will evaluate a farm's rate, timing, and form of nutrient application.

Stormwater Issues:

- EPA appreciates MD submitting a revision of their WIP stormwater section last week which strengthened the reasonable assurance needed for the stormwater program. However, there are still some areas in need of further improvements and clarification.
- The final WIP should include a summary that explains the actual practice/process by which ESD to the MEP assures achievement of the "woods in good condition" outcome for new development. What are the terms by which practicability is judged? What is required of permittees when on-site

practicability falls short of replicating "woods in good condition"? How is "woods in good condition" defined for a project: i.e, Is "woods in good condition" applied quantitatively in terms of flow and pollution loads - specifically N, P, Sediment? How often and to what extent are variances from the "woods in good condition" outcome permitted?

- The final WIP also should explain the meaning of "treatment" and "restore" as used in the retrofit context. How is the site-specific performance expectation determined for a project involving retrofits? Is it defined quantitatively in flow and/or pollution load terms? What is the target environmental outcome? What is required when on-site implementation cannot practicably achieve the target environmental outcome?
- The final WIP should include a description of the method of accounting for retrofit load reduction outcomes at the local scale in order to track progress toward WLA achievement.

Blue Plains Issues:

- MDE acknowledged the need to coordinate with WSSC to clarify the distribution of Phosphorous load allocations between Blue Plains and Seneca WWTPs and a mutual understanding with WSSC that both N and P load allocations will not be exceeded if WSSC uses the 6 mgd reserve and increases flow to Blue Plains.
- MDE acknowledged need to work out with WSSC a 0.1 mgd flow issue at Blue Plains. MDE committed to write to WSSC on the issue to ask for confirmation that MD WIP input deck is consistent with WSSC's understanding. If this issue could not be resolved between MDE and WSSC, EPA will help because this 0.1 mgd is from a federal facility.
- MD agreed to footnote a table in the WIP to the effect that WSSC would be required to offset or discharge at low concentrations if they intend to use "any" of the 6 mgd reserve.
- MD should include the federal load estimates and a final or preliminary list of federal facilities in the WIP.

Federal Facilities Issues:

- The final WIP should include the federal load estimates and a final or preliminary list of federal facilities in the WIP. EPA will provide a final GIS file for federal lands plus an estimate of nutrient and sediment loads from federal lands by source for all segments. EPA will provide an attribute table for the GIS layer that will assist MD in identifying specific federal facility names, owners, and locations.

Conclusion:

We do not believe these requests for more specific descriptions of proposed actions in the final MD Phase I WIP are unreasonable. We also think that a clearer description of your contingencies for agriculture and stormwater could help provide greater reasonable assurance. Again, we encourage you to continue to submit revised sections of your WIP where we have raised concerns so we can review your proposals now and avoid any unwanted surprises in the final WIP and TMDL. With this additional information on gap-closing strategies I am confident that Maryland's final Phase I WIP can be even better than your draft plan and be the best plan we receive.

Thanks again Jim

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